

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JANA ROMANOVA,

Plaintiff,

- against -

VICE MEDIA LLC

Defendant.

Docket No: 1:19-cv-334

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Jana Romanova (“Romanova” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Vice Media LLC (“Vice” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of eight copyrighted photographs of Romanova’s waiting project that features pregnant couples in bed, owned and registered by Romanova, a professional photographer. Accordingly, Romanova seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Romanova is an award winning professional photographer in the business of licensing her photographs to online and print media for a fee having a usual place of business at 15-5-210 Saint Petersburg 195298 Russian Federation. Her photographs have been exhibited in international exhibitions, galleries, and festivals around the world such as the Copenhagen PhotoFestival, Format, Chobi Mela, Cortona on the Move, Encontros da Imagem, the Backlight Festival, Perchance to Dream at the Andrea Meislin Gallery, New Saint-Petersburg at Nieuw Dakota Gallery, Moscow Photobiennale and Riga Photography Biennale.

6. Upon information and belief, Vice is a foreign limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business 49 S 2nd Street, Brooklyn, New York 11211. Upon information and belief Vice is registered with the New York Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, Vice has operated a website at the URL: www.Instagram.com/Vice_Austria (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Romanova photographed pregnant couples in bed for her waiting project (the “Photographs”). A true and correct copy of the Photographs is attached hereto as Exhibit A.

8. Romanova is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with the United States Copyright Office and were given registration numbers VA 2-036-611, VA 2-022-832, VA 2-036-609, VA 2-034-159.

B. Defendant's Infringing Activities

10. On January 24, 2018, Vice ran the Photographs on the Website. See URL: https://www.instagram.com/p/BeVugGNIT81/?taken-by=vice_austria. A screenshot of the Photographs on the Website are attached hereto as Exhibit B.

11. Vice did not license the Photographs from Plaintiff for its article, nor did Vice have Plaintiff's permission or consent to publish the Photographs on its Website.

12. Vice has a history of infringing upon Romanova's photographs.

13. In 2016, Romanova sued Vice for using one of her waiting project Photographs without permission, which is at issue again in this litigation. See *Romanova v. Vice Media LLC* (1:16-cv-06552-WFK-RER).

14. In 2017, Romanova, sued Vice for using another waiting project Photograph without permission, which is at issue again in this litigation. See *Romanova v. Vice Media LLC* (1:17-cv-1378-FB-RER)

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

15. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-14 above.

16. Vice infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Vice is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

17. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

18. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

19. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

20. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

21. Plaintiff further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Vice be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;

5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
January 13, 2019

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